

UNICAT

Terms and Conditions of Sale

1. These terms and conditions of sale ("Terms") and the accompanying quotation or order acknowledgement (respectively, "Quotation" or "Order Acknowledgement," and collectively with Terms, this "Agreement") are the only terms that govern the sale of the goods identified therein ("Goods") by Unicat Catalyst Technologies, LLC ("Seller") to the buyer named therein ("Buyer"). Seller and Buyer may each be referred to as a "Party" or collectively as the "Parties." This Agreement supersedes all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. Buyer's issuance of a purchase order in response to Seller's Quotation, or Buyer's acceptance of an Order Acknowledgement, shall conclusively evidence Buyer's unconditional acceptance of these Terms, and Seller hereby rejects and shall not be bound by any terms or conditions in Buyer's purchase order or other written communications that differ from, add to, or modify these Terms.
2. **Delivery.**
 - 2.1. The Goods will be delivered within a reasonable time after receipt of Buyer's purchase order, subject to availability of the Goods. Delivery dates given by Seller are estimates only and are subject to shipping variations and requirements. Time shall not be of the essence, and Buyer cannot reject the Goods or terminate the Agreement due to delivery delays. This condition remains in effect regardless of any notices served.
 - 2.2. Unless otherwise agreed in writing by the Parties, Seller shall deliver the Goods FCA (Incoterms 2020) Alvin, TX using Seller's standard methods for packaging and shipping such Goods.
 - 2.3. Seller may, in its sole discretion, without liability or penalty, make partial shipments of Goods to Buyer. Each shipment will constitute a separate sale, and Buyer shall pay for the units shipped whether such shipment is in whole or partial fulfillment of Buyer's purchase order.
 - 2.4. If Seller requests the return of pallets or special packaging, Buyer must return them in good condition within 30 days of receipt at Buyer's expense, or Seller will charge Buyer for their cost.
3. **Acceptance of Order.** Seller's acceptance of a purchase order shall be effective only where such acceptance is in writing and signed by an authorized representative of the Seller. A Quotation does not constitute an offer and Seller reserves the right to withdraw or revise a Quotation at any time before it accepts a purchase order.
4. **Buyer Cancellation.** In the event that Buyer cancels all or any portion of an accepted purchase order, Buyer shall reimburse Seller for all reasonable costs and expenses incurred by Seller or on Seller's behalf in connection with the cancelled order up to the date of cancellation. Such costs and expenses shall include, but are not limited to: (a) The cost of raw materials procured for the order; (b) Manufacturing costs incurred to date; (c) Labor costs directly attributable to the order; (d) Any non-cancellable commitments made by Seller to its suppliers or subcontractors in furtherance of the order; and (e) Any other direct costs reasonably incurred by Seller in reliance on the purchase order. Upon Buyer's request and at Buyer's expense, Seller shall deliver to Buyer any partially manufactured goods related to the cancelled order, provided that such delivery does not violate any applicable laws, regulations, or Seller's contractual obligations to third parties.
5. **Safety Documentation.** Seller maintains product literature and safety information detailing the necessary conditions for safe and proper use of the Goods. If Buyer does not already possess this safety literature or requires additional information or advice regarding the safe use of the Goods, Buyer should contact Seller's customer support department. Seller may periodically update safety information. Buyer is encouraged to check for the most current safety information before each use of the Goods.
6. **Title and Risk of Loss.** Risk of loss passes to Buyer upon delivery of Goods to the carrier. Seller shall not be liable for any loss of or damage to material in transit. Title to the Goods shall remain with Seller until Seller has received full payment of the purchase price. As collateral security for the payment of the purchase price of the Goods, Buyer hereby grants to Seller a lien on and security interest in and to all of the right, title, and interest of Buyer in, to, and under the Goods, wherever located, and whether now existing or hereafter arising or acquired from time to time, and in all accessions thereto and replacements or modifications thereof, as well as all proceeds (including insurance proceeds) of the foregoing. The security interest granted under this provision constitutes a purchase money security interest under the Texas Uniform Commercial Code. Upon receipt of full payment, Seller shall release its security interest, and title shall automatically pass to Buyer.
7. **Amendment and Modification.** These Terms may only be amended or modified in a writing which specifically states that it amends these Terms and is signed by an authorized representative of each Party.
8. **Payment Terms.**
 - 8.1. **Invoicing and Payment.** Buyer shall pay Seller all invoiced amounts due within 30 days after the date of Seller's invoice. All payments hereunder shall be in U.S. dollars. Seller reserves the right to require pre-payment in its sole discretion.
 - 8.2. **Late Payment.** Buyer shall pay interest on all delinquent payments at the lesser of the rate of 1.5% per month or the highest rate permissible under applicable law. Buyer shall reimburse Seller for all costs incurred in collecting any delinquent payments, including, without limitation, attorneys' fees. In addition to all other remedies available under this Agreement or at law (which Seller does not waive by the exercise of any rights hereunder), Seller shall be entitled to suspend the delivery of any Goods if Buyer fails to pay any amounts when due hereunder and such failure continues for 30 days following written notice thereof.
 - 8.3. **No Setoff.** Buyer shall not withhold payment of any amounts due and payable by reason of any set-off of any claim or dispute with Seller, whether relating to Seller's breach, bankruptcy, or otherwise.
 - 8.4. **Taxes.** All prices are exclusive of all sales, use, and excise taxes, and any other similar taxes, duties, and charges of any kind imposed by any governmental authority on any amounts payable by Buyer, unless stated otherwise in writing. For the avoidance of doubt, any customs duties, tariffs, import fees, or retaliatory duties (including any new, increased, or reinterpreted measures) imposed or increased at any time, whether before or after acceptance of Quotation, order placement, shipment, delivery, or invoicing, shall be solely for Buyer's account and shall be charged to and payable by Buyer in addition to the invoiced price. Seller shall bear no obligation to absorb, rebate, credit, or otherwise compensate Buyer for any reduction, removal, or non-application of such duties or tariffs, and no price adjustment or refund shall be made once an order is accepted or invoiced. Buyer shall be responsible for all such charges, costs, and taxes; provided, that, Buyer shall not be responsible for any taxes imposed on, or with respect to, Seller's income, revenues, gross receipts, personnel, or real or personal property or other assets.
9. **Acceptance.** Buyer shall inspect the Goods upon receipt and will be deemed to have accepted them unless, within 14 days of receipt, Buyer notifies Seller in writing that the Goods do not conform to the Quotation. If Buyer fails to provide such notice within this period, the Goods will be conclusively deemed to conform to the Quotation in all respects, and Buyer shall be bound to accept and pay for them as agreed. Quality or dimensional defects in a single delivery do not entitle Buyer to cancel the remainder of the order specified in the Quotation.
10. **Limited Warranty.** The Seller warrants to Buyer that upon receipt the Goods will materially conform to Seller's specifications set forth in the applicable Quotation (the "Specifications"). Seller can change and improve the Specifications provided they are of the same or better quality than that given in the Quotation. The warranties under this section do not apply where the Goods have been: (a) subjected to abuse, misuse, neglect, negligence, accident, abnormal physical stress or environmental conditions, use contrary to any instructions issued by Seller, or improper testing, installation, storage, handling, repair, or maintenance; (b) reconstructed or altered by anyone other than Seller or its authorized representative; or (c) used with any third-party product, or product that has not been previously approved in writing by Seller. Buyer assumes risk and liability for the results of the use of the Goods including use in accordance with Seller's recommendations.
11. **Exclusive Remedy.** Buyer shall notify Seller, in writing, of any alleged warranty claim within 14 days from the date Buyer discovers, or upon reasonable inspection should have discovered, such alleged claim. Buyer shall ship the relevant Goods at its expense and risk of loss to Seller's facility located in Alvin, Texas for inspection and testing by Seller. If Seller's inspection and testing reveals, to Seller's satisfaction, that such Goods do not conform with the limited warranty set forth herein, Seller shall in its sole discretion, and at its expense either (a) replace such Goods, or (b) credit or refund the price of such Goods less any applicable discounts, rebates, or credits. THIS SECTION 10 SETS FORTH THE BUYER'S SOLE AND EXCLUSIVE REMEDY AND SELLER'S ENTIRE LIABILITY FOR ANY BREACH OF THE LIMITED WARRANTY SET FORTH IN SECTION 9.
12. **WARRANTIES DISCLAIMER. EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH IN SECTION 9, SELLER MAKES NO EXPRESS OR IMPLIED WARRANTY WHATSOEVER WITH RESPECT TO THE GOODS, INCLUDING ANY (A) WARRANTY OF MERCHANTABILITY; (B) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; OR (C) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY; WHETHER ARISING BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE, OR OTHERWISE. BUYER ACKNOWLEDGES THAT IT HAS NOT RELIED UPON ANY REPRESENTATION OR WARRANTY MADE BY SELLER, OR ANY OTHER INDIVIDUAL OR ENTITY ON SELLER'S BEHALF, EXCEPT AS SPECIFICALLY PROVIDED IN SECTION 9 OF THESE TERMS.**
13. **LIMITATION OF LIABILITY.**
 - 13.1. IN NO EVENT SHALL SELLER OR ANY OF ITS REPRESENTATIVES BE LIABLE FOR CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE, OR ENHANCED DAMAGES, LOST PROFITS OR REVENUES OR DIMINUTION IN VALUE, ARISING OUT OF OR RELATING TO THIS AGREEMENT, REGARDLESS OF (A) WHETHER SUCH

DAMAGES WERE FORESEEABLE, (B) WHETHER SELLER WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND (C) THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT, OR OTHERWISE) UPON WHICH THE CLAIM IS BASED.

- 13.2. SELLER'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, SHALL NOT EXCEED THE TOTAL OF THE AMOUNTS PAID BY BUYER FOR SUCH ORDER.
- 13.3. BUYER ACKNOWLEDGES AND AGREES THAT THE PARTIES ENTERED INTO THE AGREEMENT IN RELIANCE UPON THE LIMITATIONS OF LIABILITY SET FORTH IN THIS SECTION 12, THAT THE SAME REFLECT AN ALLOCATION OF RISK BETWEEN THE PARTIES (INCLUDING THE RISK THAT A CONTRACT REMEDY MAY FAIL OF ITS ESSENTIAL PURPOSE AND CAUSE CONSEQUENTIAL LOSS), AND THAT THE SAME FORM AN ESSENTIAL BASIS OF THE BARGAIN BETWEEN THE PARTIES.
14. **Legal Compliance.** Buyer shall comply with all applicable laws, rules, and regulations in connection with this sale, and in particular all laws governing the import and export of goods, all trade sanctions, and all laws prohibiting bribery. Buyer acknowledges that goods supplied by Seller are subject to the export control and sanctions laws of the United States, United Kingdom, the country from which they are exported, and perhaps other countries as well. Buyer shall not export, reexport, sell, or otherwise transfer goods supplied by Seller without the required authorization. Buyer further represents that it is not listed on any of the various denied parties lists established by the U.S., the U.K. and the EU, or any other applicable jurisdiction, including without limitation, the U.S. Department of the Treasury's Specially Designated Nationals and Blocked Persons List, HM Treasury's Office of Financial Sanctions Implementation's Consolidated List or the EU Consolidated Sanctions List. Further, Buyer certifies that it is not owned in the aggregate, directly or indirectly, 50 percent or more, by any individual that is included on any of the various denied parties' lists described above.
15. **Confidentiality.** All non-public, confidential, or proprietary information of Seller, including but not limited to specifications, samples, designs, drawings, documents, data, business operations, customer lists, pricing, or discounts, disclosed by Seller to Buyer, whether disclosed orally or disclosed or accessed in written, electronic, or other form or media, and whether or not marked, designated, or otherwise identified as "confidential" in connection with this Agreement, shall be considered confidential, solely for the use of performing this Agreement, and may not be disclosed or copied unless authorized in advance by Seller in writing. Upon Seller's request, Buyer shall promptly return all documents and other materials received from Seller. Seller shall be entitled to injunctive relief for any violation of this Section. This Section does not apply to information that is:
(a) in the public domain; (b) known to Buyer at the time of disclosure; or (c) rightfully obtained by Buyer on a non-confidential basis from a third party.
16. **Intellectual Property.** All intellectual property rights, including but not limited to patents, trademarks, copyrights, trade secrets, proprietary information, and other rights ("**Intellectual Property Rights**") in and to the Goods and any related documentation, software, or technology, are and shall remain the exclusive property of Seller or its licensors. The sale of Goods to Buyer does not constitute a transfer, assignment, or license of any Intellectual Property Rights to Buyer.

17. **Force Majeure.** Neither Party shall be liable or responsible to the other Party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement (except for any obligations to make payments to the other Party hereunder), when and to the extent such failure or delay is caused by or results from acts beyond the impacted Party's ("**Impacted Party**") reasonable control, including, the following force majeure events ("**Force Majeure Events**"): (a) acts of God; (b) flood, fire, earthquake, epidemics, pandemics, or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (d) order or action by any governmental authority or requirements of law; (e) embargoes or blockades in effect on or after the date of this Agreement; (f) national or regional emergency; (g) strikes, delays by suppliers, accidents, lock outs, material shortages, damage to machines plant or stock, labor stoppages or slowdowns, or other industrial disturbances; (h) telecommunication breakdowns, power outages or shortages, lack of warehouse or storage space, inadequate transportation services, or inability or delay in obtaining supplies of adequate or suitable materials; and (i) other events beyond the reasonable control of the Impacted Party.
18. **Assignment.** Buyer's rights, interests, or obligations hereunder may not be assigned, transferred, or delegated by Buyer without the prior written consent of Seller. Any purported assignment or delegation in violation of this Section is null and void. No assignment or delegation relieves Buyer of any of its obligations under this Agreement.
19. **Relationship of the Parties.** The relationship between the Parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture, or other form of joint enterprise, employment, or fiduciary relationship between the parties, and neither Party shall have authority to contract for or bind the other Party in any manner whatsoever.
20. **No Third-Party Beneficiaries.** This Agreement benefits solely the Parties to this Agreement. Nothing in this Agreement, express or implied, confers on any other person any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of this Agreement.
21. **Governing Law; Jurisdiction.** This Agreement is governed by and construed in accordance with the laws of the State of Texas without giving effect to any conflict of laws provisions thereof. All legal proceedings shall be instituted in the state or federal courts of the State of Texas. Each Party irrevocably and unconditionally submits to the exclusive jurisdiction of such courts. The parties agree that the United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement.
22. **Attorney Fees.** In the event that any Party institutes any legal suit, action, or proceeding, including arbitration, against the other Party arising out of or relating to this Agreement, the prevailing Party in the suit, action, or proceeding shall be entitled to receive, in addition to all other damages to which it may be entitled, the costs incurred by such Party in conducting the suit, action, or proceeding, including reasonable attorneys' fees and expenses and court costs.
23. **Notices.** All notices shall be in writing and addressed to the parties at the addresses set forth on the face of the Quotation or to such other address for either Party as that Party may designate by written notice. All notices must be delivered by nationally recognized overnight courier, or certified or registered mail (in each case, return receipt requested).
24. **Severability.** If any term or provision of this Agreement is determined to be invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.
25. **Waiver.** No waiver by Seller of any of the provisions of this Agreement is effective unless explicitly set forth in writing and signed by Seller. No failure to exercise, or delay in exercising, any right, remedy, power, or privilege arising from this Agreement by Seller operates or may be construed, as a waiver thereof. No single or partial exercise of any right, remedy, power, or privilege hereunder by Seller precludes any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege by Seller.